



January 10, 2014

SENATE BILL No. 66

DIGEST OF SB 66 (Updated January 8, 2014 11:43 am - DI 84)

Citations Affected: IC 4-38; IC 6-3.

Synopsis: State-assisted retirement plan. Establishes a state-assisted retirement plan (plan) for purposes of encouraging Indiana residents to increase their rate of savings and to build assets for the use of a participant or the participant's beneficiaries or survivors after the participant's retirement. Establishes the Indiana retirement savings board (board) consisting of five members appointed by the governor, the treasurer of state, and the director of the office of management and budget. Provides that the board selects an administrator and oversees the plan. Requires that the plan be qualified under Section 401(a) or another applicable section of the Internal Revenue Code. Provides that an employer may participate in the plan only if the employer does not offer its employees a pension or retirement system of any kind. Provides that participation in the plan is voluntary for eligible employers and employees, and permits self-employed individuals to participate in the plan. Provides that the plan may not be construed as a debt, a liability, or an obligation of the state, and that the state does not guarantee amounts deposited into an account or investment returns earned by an account. Provides a one-time tax credit, not to exceed \$250, for payroll contributions to the plan made by a participant who has not previously participated in a pension or retirement plan of any kind. (The introduced version of this bill was prepared by the pension management oversight commission.)

Effective: July 1, 2014.

Walker, Tallian, Buck, Kruse

January 7, 2014, read first time and referred to Committee on Pensions and Labor.
January 9, 2014, reported favorably — Do Pass; reassigned to Committee on Tax and Fiscal Policy.

SB 66—LS 6045/DI 102



January 10, 2014

Second Regular Session 118th General Assembly (2014)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

SENATE BILL No. 66

A BILL FOR AN ACT to amend the Indiana Code concerning pensions.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 4-38 IS ADDED TO THE INDIANA CODE AS A
2 **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,
3 2014]:

4 ARTICLE 38. STATE-ASSISTED RETIREMENT PLAN

5 Chapter 1. Definitions

6 Sec. 1. The definitions in this chapter apply throughout this
7 article.

8 Sec. 2. "Account" refers to a plan account established for a
9 participant under IC 4-38-3-5.

10 Sec. 3. "Board" refers to the Indiana retirement savings board
11 established by IC 4-38-2-1.

12 Sec. 4. "Compensation" means wages, salary, commissions, and
13 any other form of remuneration, as defined by the plan, paid for
14 personal services by an employer to a participant.

15 Sec. 5. "Internal Revenue Code" has the meaning set forth in
16 IC 6-3-1-11.

SB 66—LS 6045/DI 102



1 **Sec. 6. "Participant" means an individual who has elected to**
 2 **participate in the plan.**

3 **Sec. 7. "Participating employer" means a person or entity that:**

4 **(1) meets the eligibility requirements established by the plan**
 5 **to participate in the plan as an employer; and**

6 **(2) elects to participate in the plan.**

7 **Sec. 8. "Plan" refers to the state-assisted retirement plan**
 8 **established by IC 4-38-3-1.**

9 **Chapter 2. Indiana Retirement Savings Board**

10 **Sec. 1. The Indiana retirement savings board is established.**

11 **Sec. 2. (a) The board consists of the following:**

12 **(1) The following two (2) ex officio members:**

13 **(A) The treasurer of state.**

14 **(B) The director of the office of management and budget.**

15 **(2) Five (5) appointed members who:**

16 **(A) are appointed by the governor; and**

17 **(B) have knowledge, skill, and experience in professional**
 18 **financial accounting, business, economics, finance, or**
 19 **investments.**

20 **(b) During a member's term of service on the board, an**
 21 **appointed member of the board may not be an official or employee**
 22 **of the state.**

23 **(c) Not more than three (3) of the appointed members of the**
 24 **board may belong to the same political party.**

25 **(d) An appointed member of the board serves a four (4) year**
 26 **term. An appointed member shall hold over after the expiration of**
 27 **the member's term until the member's successor is appointed and**
 28 **qualified.**

29 **(e) The governor may reappoint an appointed member of the**
 30 **board.**

31 **(f) A vacancy shall be filled for the balance of an unexpired term**
 32 **in the same manner as the original appointment.**

33 **(g) The treasurer of state shall serve as the chair of the board.**
 34 **The director of the office of management and budget shall serve as**
 35 **the vice chair of the board.**

36 **(h) The governor may remove an appointed member of the**
 37 **board for misfeasance, malfeasance, willful neglect of duty, or**
 38 **other cause, after notice and a public hearing, unless the member**
 39 **expressly waives the notice and hearing in writing.**

40 **(i) An ex officio member of the board may designate a person to**
 41 **serve as an ex officio member of the board in the ex officio**
 42 **member's absence.**



1 **Sec. 3. (a) An appointed member of the board is not entitled to**
 2 **the minimum salary per diem provided under IC 4-10-11-2. Each**
 3 **appointed member is entitled to reimbursement for traveling**
 4 **expenses and other expenses actually incurred in connection with**
 5 **the member's duties.**

6 **(b) An ex officio member of the board is entitled to**
 7 **reimbursement for traveling expenses and other expenses actually**
 8 **incurred in connection with the member's duties.**

9 **Sec. 4. (a) Five (5) members of the board constitute a quorum.**

10 **(b) The affirmative vote of a majority of the members on the**
 11 **board is necessary for the board to take action.**

12 **(c) The board shall meet at the call of the chair and at other**
 13 **times as the board considers necessary.**

14 **Sec. 5. (a) The board shall do all of the following:**

15 **(1) Adopt provisions to implement the plan, subject to**
 16 **obtaining the approval of the Internal Revenue Service in a**
 17 **manner that satisfies the board that the plan is qualified**
 18 **under Section 401(a) or another applicable section of the**
 19 **Internal Revenue Code, through:**

20 **(A) rules or emergency rules adopted under IC 4-22-2; or**

21 **(B) guidelines, procedures, or policies established by the**
 22 **board.**

23 **(2) Administer the plan as provided under section 6 of this**
 24 **chapter.**

25 **(3) Conform the plan to federal tax advantages or incentives,**
 26 **as in existence periodically, to the extent consistent with the**
 27 **purposes and objectives of this article.**

28 **(4) Prepare an annual report for the plan and promptly**
 29 **transmit the annual report to the governor and the general**
 30 **assembly. The board shall make available, upon request,**
 31 **copies of the annual report to participants, participating**
 32 **employers, and the public. A report transmitted under this**
 33 **subdivision must be in an electronic format under IC 5-14-6.**

34 **(5) Interpret, in rules, policies, guidelines, and procedures, the**
 35 **provisions of this article broadly in light of the purposes and**
 36 **objectives of this article.**

37 **(b) The board may do any of the following:**

38 **(1) Adopt a plan document that the board considers**
 39 **appropriate or necessary to administer the plan.**

40 **(2) Request from the Internal Revenue Service any rulings or**
 41 **determination letters that the board considers necessary or**
 42 **appropriate in order to implement or administer the plan.**



(3) Make contracts and sue and be sued as the Indiana retirement savings board.

(4) Contract with public or private persons or entities for the provision of all or any portion of the services the board considers necessary for the management and operation of the plan, including the administration of the plan and the investment of plan assets.

(5) Recommend legislation to the governor and general assembly.

(6) Exercise all powers necessary, convenient, or appropriate to:

(A) carry out and effectuate the purposes and objectives of this article; and

(B) conduct the board's business.

Sec. 6. (a) The board shall select and enter into a written contract with one (1) or more persons to provide all or part of the services involved in the administration of the plan. The board shall select these persons through a competitive bidding process established using specifications considered appropriate by the board. This section does not require a limitation on the number or variety of plan investment options selected by the board as the result of a bidding process.

(b) A person with whom the board contracts under this section must be authorized and licensed by the state and applicable federal regulatory agencies as required by law to offer the services that the person contracts to provide.

Chapter 3. Plan Establishment; General Provisions

Sec. 1. A state-assisted retirement plan is established for the purposes of encouraging Indiana residents to increase their rate of savings and to build assets for the use of a participant or the participant's beneficiaries or survivors after the participant's retirement.

Sec. 2. (a) The plan shall be maintained as a separate trust account for the exclusive benefit of participants and their beneficiaries and survivors.

(b) The board shall serve as the trustee of the trust account.

(c) The trust account for the plan must be preserved, invested, and expended only under this article and may not be used for any other purpose.

Sec. 3. (a) The plan must establish eligibility requirements that an employer must meet to become a participating employer.

(b) Only an employer that does not offer its employees a pension



1 or retirement system of any kind may be a participating employer.

2 (c) The action of an employer to become a participating
3 employer is voluntary.

4 Sec. 4. An individual who is:

5 (1) employed by a participating employer; or

6 (2) self-employed;

7 may elect to be a participant in the plan.

8 Sec. 5. (a) The plan shall establish a separate account for each
9 individual who elects to be a participant in the plan under section
10 4 of this chapter.

11 (b) A participant may contribute to the participant's account, in
12 the manner and at intervals established by the plan.

13 (c) The plan must allow a participant to make contributions to
14 the plan using the following:

15 (1) Deductions from the participant's compensation using a
16 participating employer's payroll system.

17 (2) Deductions from the participant's savings or checking
18 account.

19 Sec. 6. A participating employer may contribute to the account
20 of a participant whom the employer employs, in the manner and at
21 intervals established by the plan.

22 Sec. 7. (a) The following are the property of a participant at all
23 times:

24 (1) Money deposited in an account:

25 (A) by the participant; or

26 (B) on behalf of the participant.

27 (2) Investment returns on the participant's account.

28 (b) A participant shall direct the investment of all amounts in
29 the participant's account among the investment alternatives
30 provided under the plan.

31 (c) Amounts held in a participant's account may not be used by
32 the participant as security for a loan.

33 Sec. 8. The plan shall include provisions for the operation of the
34 plan, including methods for:

35 (1) making a contribution;

36 (2) changing the amount of a contribution;

37 (3) distributing the amounts in a participant's account;

38 (4) allowing a participant to designate one (1) or more
39 beneficiaries to receive the participant's account in the event
40 of the participant's death;

41 (5) choosing and changing investment alternatives;

42 (6) reporting account information to a participant; and



(7) determining and paying the administrative costs of the plan.

Chapter 4. Miscellaneous Provisions

Sec. 1. Accounts and earnings or interest on accounts are exempt from taxation in Indiana to the extent that those accounts, earnings, or interest are exempt from federal taxation under the Internal Revenue Code.

Sec. 2. (a) The plan established by this article may not be construed as a debt, a liability, or an obligation of the state.

(b) All documents used to communicate with a participant, beneficiary, or survivor in connection with transactions involving a participant's account must clearly state the following:

(1) That the account is not insured by the state.

(2) That the state does not guarantee:

(A) amounts deposited into an account; or

(B) investment returns earned by amounts in an account.

Sec. 3. A participating employer is not responsible for and may not be held liable for any loss or damage resulting from the operation or performance of the plan authorized under this article.

SECTION 2. IC 6-3-3-13 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 13. (a) This section applies to the first year during which a taxpayer who has not previously participated in a pension or retirement plan of any kind becomes a participant in the state-assisted retirement plan established by IC 4-38-3-1.

(b) As used in this section, "account" has the meaning set forth in IC 4-38-1-2.

(c) As used in this section, "contribution" means the amount of money directly provided to an account by a taxpayer using a participating employer's payroll system. A contribution does not include rollovers to an account from another qualified retirement plan to the extent permitted by the Internal Revenue Code and applicable regulations and guidance.

(d) As used in this section, "nonqualified withdrawal" means a withdrawal or distribution from an account that is not a qualified withdrawal.

(e) As used in this section, "participant" has the meaning set forth in IC 4-38-1-6.

(f) As used in this section, "participating employer" has the meaning set forth in IC 4-38-1-7.

(g) As used in this section, "plan" has the meaning set forth in IC 4-38-1-8.



(h) As used in this section, "qualified withdrawal" means a withdrawal or distribution from an account that is made:

- (1) as the result of the participant's termination of employment with a participating employer to the extent the withdrawal or distribution is required or permitted by the plan or the Internal Revenue Code; or
- (2) after the death or disability of the participant.

(i) As used in this section, "taxpayer" means:

- (1) an individual filing a single return; or
- (2) a married couple filing a joint return.

(j) A taxpayer is entitled to a credit against the taxpayer's adjusted gross income tax imposed under IC 6-3-1 through IC 6-3-7 for the first taxable year during which the taxpayer is a participant in the state-assisted retirement plan equal to the least of the following:

- (1) The amount of the total contributions made through a participating employer's payroll system to an account by the taxpayer during the taxable year.
- (2) Two hundred fifty dollars (\$250).
- (3) The amount of the taxpayer's adjusted gross income tax imposed under IC 6-3-1 through IC 6-3-7 for the taxable year, reduced by the sum of all credits (as determined without regard to this section) allowed by IC 6-3 or IC 6-3.1 for the taxable year.

(k) A taxpayer is not entitled to a carryback, carryover, or refund of an unused tax credit.

(l) A taxpayer may not sell, assign, convey, or otherwise transfer the tax credit provided by this section.

(m) To receive the tax credit provided by this section, a taxpayer must claim the tax credit on the taxpayer's annual state tax return or returns in the manner prescribed by the department. The taxpayer shall submit to the department all information that the department determines is necessary for the calculation of the tax credit provided by this section.

(n) A taxpayer must repay all or a part of the tax credit in a taxable year in which any nonqualified withdrawal is made from the account. The amount the taxpayer must repay is equal to the lesser of:

- (1) the total amount of nonqualified withdrawals made from the account during the taxable year; or
- (2) the amount of the tax credit received under subsection (j).

(o) Any required repayment under subsection (n) shall be



1 reported by the participant on the participant's annual state
2 income tax return for any taxable year in which a nonqualified
3 withdrawal is made.

4 (p) A nonresident participant who is not required to file an
5 annual income tax return for a taxable year in which a
6 nonqualified withdrawal is made shall make any required
7 repayment on the form required under IC 6-3-4-1(2). If the
8 nonresident participant does not make the required repayment, the
9 department shall issue a demand notice in accordance with
10 IC 6-8.1-5-1.

11 (q) The chair of the Indiana retirement savings board shall
12 submit or cause to be submitted to the department a copy of all
13 information returns or statements issued to participants for each
14 taxable year for:

15 (1) nonqualified withdrawals made from accounts for the
16 taxable year; or

17 (2) account closings for the taxable year.



COMMITTEE REPORT

Madam President: The Senate Committee on Pensions and Labor, to which was referred Senate Bill No. 66, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS and be reassigned to the Senate Committee on Tax and Fiscal Policy.

(Reference is to SB 66 as introduced.)

Committee Vote: Yeas 6, Nays 0

Senator Boots, Chairperson

